AMENDED IN SENATE JULY 5, 2001

AMENDED IN SENATE JUNE 14, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY MARCH 29, 2001

AMENDED IN ASSEMBLY MARCH 23, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 142

Introduced by Assembly Member Richman
(Coauthor: Assembly Member Koretz)
(Coauthor: Senator Speier)

January 24, 2001

An act to amend Section 1375.5 of, and to add Section 1375.7 to, the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Richman. Health care service plans.

The Knox-Keene Health Care Service Plan Act of 1975 provides for the regulation and licensing of health care service plans by the Department of Managed Health Care and makes the willful violation of any of its provisions a crime. Existing provisions of this act prohibit a contract between a health care service plan and a risk-bearing organization, as defined, from including any provision that requires the risk-bearing organization to be at financial risk for the provision of health care services unless the provision has been first negotiated and agreed to by the parties.

This bill would instead provide that no health care service plan contract that is issued, amended, or renewed in this state on or after July 1, 2002, shall require or allow a health care service provider, as defined, to assume or be at any financial risk, as defined, for certain designated services and items that would be funded, instead, by the health care service plan, subject to any applicable copayment or deductible. *The bill would specify the reimbursement rate paid by a health care service plan to a health care service provider for these services and items.* The bill would also require the department to report to the Legislature by July 1, 2004, on whether the services that would be excluded from the contracts specified in the bill should continue to be excluded and whether other services should be added.

Because this bill would impose a requirement regulating health care service plans, the willful violation of which is a criminal offense, it would create a new crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1375.5 of the Health and Safety Code is amended to read:

1375.5. No contract between a risk-bearing organization and a health care service plan that is issued, amended, delivered, or renewed in this state on or after July 1, 2000, shall include any provision that requires the risk-bearing organization to be at financial risk for the provision of health care services, unless the provision has first been negotiated and agreed to between the health care service plan and the risk-bearing organization.

This section shall not prevent a risk-bearing organization from accepting the financial risk pursuant to a contract that meets the requirements of Section 1375.4.

SEC. 2. Section 1375.7 is added to the Health and Safety Code, to read:

1375.7. (a) The Legislature finds the following:

(1) Because of the nature and cost of certain medical services, the financial risk of these services is better retained by the health care service plan than by health care service providers.

(2) Prohibiting health care service providers from taking the financial risk for the services described in this section, and requiring the health care service plans to fund them, will assist in maintaining patient access to health care service providers.

(b) Notwithstanding Section 1375.5, no health care service plan contract ~~plan~~ that is issued, amended, delivered, or renewed in this state on or after July 1, 2002, shall require or allow a health care service provider to assume or be at any financial risk for any of the following services or items, when covered under the applicable plan contract, that shall, instead, be funded and paid for, subject to any applicable copayment or deductible, by the health care service plan:

(1) Chemotherapeutic medications and adjunct pharmaceutical therapies for side effects.

(2) Drugs, medications, or blood products used for hemophilia.

(3) Medications related to transplant services.

(4) Injectable medication or medication in an implantable dosage form costing more than five hundred dollars ($500) *per patient per year*, based on the average wholesale price, as published in the Drug Topics Red Book~~, for a patient during one calendar year~~.

~~(5) Vaccines.~~

~~(6)~~

(5) Self-injectable medications.

(c) The following definitions apply for the purposes of this section:

(1) ‘‘Financial risk’’ means any contractual financial agreement between a health care service provider and a health care service plan for services rendered to a patient or enrollee if the reimbursement from a health care service plan is other than ~~a fee-for-service rate structure~~ *as described in subdivision (d)*. ‘‘Financial risk’’ includes, but is not limited to, capitation payments, case rates, and risk pools.

(2) ''Health care service provider'' means an individual, partnership, group, or corporation that delivers, furnishes, or otherwise arranges for or provides health care services.

(d) *(1) Beginning January 1, 2002, a health care service plan shall reimburse a health care service provider for the services and items described in subdivision (b) at the lowest of the following rates:*

(A) The health care service provider's actual acquisition cost.

(B) The average wholesale price as published in the Drug Topics Red Book.

(C) The lowest acquisition cost through a source made available to the health care service provider by the health care service plan.

(2) The health care service plan shall reimburse the health care service provider within 45 days of its receipt of documents from the provider demonstrating that the service or item was performed or used. The reimbursement process shall be consistent with the provisions of Section 1371 or with an alternative funding mechanism mutually agreed to by the health care service plan and the health care service provider.

(e) This section shall not preclude any payment by a health care service plan to a health care service provider for the performance of any services related to quality measures and programs.

~~(e)~~

(f) The Department of Managed Health Care shall report to the appropriate policy and fiscal committees of the Legislature by July 1, 2004, on whether the services listed in subdivision (b) should continue to be excluded from contracts and whether any other services should be added to that list.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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